

REMARKS

Claims 1-15 are pending in the present application. With entry of this Amendment, Applicants amend claims 1, 5-9 and 13 and adds new claims 16-18. Reexamination and reconsideration are respectfully requested.

The Rejections

The Examiner rejected claims 5 and 9 under 35 U.S.C. § 101. Claims 3, 7, 11 and 15 were rejected under § 112, second paragraph. The Examiner rejected all of the claims under § 102(b) as being anticipated by Wiser (US 6385596 B1). The rejections are respectfully traversed.

Claim 1

The present invention relates to previewing and/or purchasing song data, such as through a network. Claim 1 is directed to a song data reproduction apparatus. The apparatus has a storage section that stores performance data and order information. The performance data represents a content of a music performance and contains reproduction limiting information for limiting a reproduction state of the content of the music performance. The order information indicates a usage right, such as preview or purchase, of the content of the music performance. The apparatus refers to the order information to identify the usage right. If the usage right indicates a preview, the apparatus reads the reproduction limiting information and controls the reproduction state of the content of the music information according to the reproduction limiting information.

One of the advantages of the above claimed invention is that the stored song data is composed of performance data and order information. This avoids unnecessary separate acts relating to order information and performance data. Another advantage of the above claimed invention is that the performance data contains information for limiting a reproduction state of the content of the music performance. The entire performance data can accordingly be stored with its reproduction controlled as desired by reading or not reading the reproduction limiting information. Thus, there is no need to store a preview version of the music performance separately from a purchase version.

Applicants have amended claim 1 in a number of ways. Claim 1, as amended, recites a storage section that stores song data composed of performance data and order information “corresponding to the performance data.” While it is believed that claim 1 as originally drafted clearly recited that the song data is composed of the performance data and order information, this amendment is meant to further emphasize the linked nature of the performance data and order information.

Claim 1 also has been amended to more clearly recite what the reproduction limiting information does. Specifically, claim 1, as amended, recites “the reproduction limiting information specifying a portion of the content to not be reproduced when the music performance is to be reproduced.”

Wiser is directed to a music distribution system having a client and server communicating through the Internet. When the client wishes to preview a song, he or she sends a preview request to an HTTP server. In response, a media voucher is sent back to the client. (See Col. 15, lines 19-23.) The client reads out a media ID and a voucher ID from the received voucher and sends them to a different server, i.e., the delivery server. (See Col. 15, lines 33-43.) In response, the delivery server transmits the media information to the client. (See Col. 15, lines 56-57.) When the client wishes to purchase a song, the same general approach is applied with the user requesting purchase, a voucher provided by the client upon payment and then a subsequent delivery of the purchase media information. (See, e.g., Col. 16, lines 31-43 and Col. 18, line 47 to Col. 19, line 49.)

Wiser does not anticipate claim 1 for at least two reasons. First, the media voucher is sent to the user separately from the media information. The media information is never provided concurrently with the media information to be stored by the client. In contrast, claim 1 recites a storage section that stores “song data composed of performance data and order information corresponding to the performance data.” By having song data that includes both performance data and order information, the present invention overcomes the need for separate actions – such as in Wiser – relating to the performance data and the order.

Second, Wiser fails to disclose that the performance data contains reproduction limiting information that specifies a portion of the content to not be reproduced. Nor could it. Wiser controls how much of a song is reproduced by having the client receive different sets of song data, i.e., a preview version or a purchase version. In contrast, the present invention, as set forth in claim 1, receives one version and its reproduction is controlled as desired by reading or not reading the recited reproduction limiting information. In this manner, the present invention overcomes the need to separately store a preview version and a purchase version as employed in Wiser.

Accordingly, Applicants respectfully submit that claim 1 is not anticipated by Wiser.

Claims 2-4

Claims 2-4 depend from claim 1. Applicants respectfully submit that claims 2-4 are not anticipated by Wiser for at least the reasons set forth above with respect to claim 1.

Applicants note that the Examiner independently rejected claim 3 under § 112, second paragraph. Claim 3 recites that the reproduction limiting information contains information for “specifying a channel among a plurality of channels” usable for reproducing the music performance. The Examiner contends that it is unclear what the quoted recitation means.

Applicants respectfully submit that the phrase is clear. The recitation simply means what it says: the reproduction limiting information specifies a channel from among a plurality of channels for reproducing the music performance. There is support for the recitation in the specification. As for example explained in paragraphs 0026 and 0043, the reproduction limiting information specifies at least one channel for reproduction and mutes any other channel that does not match the reproduction limiting information. In this manner, only an aurally limited version of the song is reproduced for preview. Thus, Applicants respectfully request that the Examiner withdraw the rejection.

Claim 5

Applicants have amended claim 5 from a song data reproduction program to a song data reproduction “method executable by” a song data reproduction apparatus. Applicants have further amended claim 5 in a similar manner as claim 1.

Applicants respectfully submit that claim 5 is not anticipated by Wiser for at least the reasons set forth above with respect to claim 1.

The Examiner independently rejected claim 5 under § 101. The Examiner apparently contends that a program must be encoded on a physical medium and cites MPEP 2106(IV)(B)(1)(a). Applicants have reviewed the cited MPEP section. It refers to the recitation of a physical medium with reference to claim for a data structure. The present claim, as amended, is directed to method. The cited section also notes that a claim that merely recites a computer listing is nonstatutory. (See, e.g., the cited MPEP section (“Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material *per se* and hence nonstatutory.”)) In contrast, claim 5 as amended is not directed to a “mere program listing,” because claim 5 recites that the method is executable by an apparatus. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 6-8

Applicants have amended dependent claims 6-8 in view of the amendment to claim 5. Applicants respectfully submit that claims 6-8 are not anticipated by Wiser for at least the reasons set forth above with respect to claim 5.

Applicants note that the Examiner independently rejected claim 7 under § 112, second paragraph. Applicants respectfully request that the Examiner withdraw the rejection for the same reasons as set forth above with respect to claim 3.

Claim 9

Applicants have amended claim 9 to recite that the medium is readable by a computer to perform the recited steps. Applicants have further amended claim 9 in a similar manner as claim 1.

Applicants respectfully submit that claim 9 is not anticipated by Wiser for at least the reasons set forth above with respect to claim 1.

The Examiner independently rejected claim 9 under § 101. As discussed above, claim 9 as amended recites that the medium is readable by a computer. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 10-12

Claims 10-12 depend from claim 9. Applicants respectfully submit that claims 10-12 are not anticipated by Wiser for at least the reasons set forth above with respect to claim 9.

Applicants note that the Examiner independently rejected claim 11 under § 112, second paragraph. Applicants respectfully request that the Examiner withdraw the rejection for the same reasons as set forth above with respect to claim 3.

Claim 13

Applicants have amended claim 13 in a similar manner as claim 1 and respectfully submits that claim 13 is not anticipated by Wiser for at least the reasons set forth above with respect to claim 1.

Claims 14 and 15

Claims 14 and 15 depend from claim 13. Applicants respectfully submit that claims 14 and 15 are not anticipated by Wiser for at least the reasons set forth above with respect to claim 13.

Applicants note that the Examiner independently rejected claim 15 under § 112, second paragraph. Applicants respectfully request that the Examiner withdraw the rejection for the same reasons as set forth above with respect to claim 3.

Claims 16-18

New claims 16-18 depend from claims 1, 5 and 9 respectively. Support for the claims is found throughout the specification, including at paragraph 0051. Applicants respectfully submit that claims 16-18 are in condition for allowance for at least the reasons set forth above with respect to claims 1, 5 and 9.

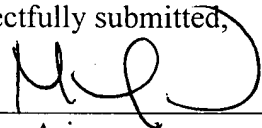
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032043200.

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Respectfully submitted,

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